

1 THE HONORABLE RICARDO MARTINEZ  
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13 UNITED STATES DISTRICT COURT  
14 WESTERN DISTRICT OF WASHINGTON  
15 AT SEATTLE  
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18 KENNETH FLEMING and JOHN DOE,  
19  
20 Plaintiffs,  
21  
22 v.  
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24 THE CORPORATION OF THE PRESIDENT  
25 OF THE CHURCH OF JESUS CHRIST OF  
LATTER-DAY SAINTS, a Utah corporation  
sole, a/d/a "MORMON CHURCH"; LDS  
SOCIAL SERVICES a/d/a LDA FAMILY  
SERVICES, a Utah corporation,  
26

Defendants.

NO. C04-2338 RSM

[PROPOSED] ORDER FOR ISSUANCE  
OF LETTERS ROGATORY

Note for Motion: September 26, 2005

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19 THIS MATTER having come on for hearing before the above-captioned Court on  
20 plaintiffs' Kenneth Fleming and John Doe ("Plaintiffs") motion for an order issuing Letters  
21 Rogatory, attached as Exhibit A, to the appropriate authority in British Columbia, Canada in  
22 order to depose Jack Loholt, a/k/a Jack Onefrey (hereinafter, Jack "Loholt" Onefrey).

23 The Court considered Plaintiffs' motion, the declaration of Steven T. Reich in Support  
24 of Plaintiffs' Motion for Letters Rogatory, and the exhibits attached thereto, any papers filed  
25 in response or reply, and the pleadings and records on file herein.

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ORDER FOR ISSUANCE OF LETTERS ROGATORY - 1 of 3  
(C04-2338 RSM)  
[150193 v05.doc]

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1           Based on the submitted briefing of counsel and the evidence presented, the Court finds  
2 that:

- 3           1. The deposition testimony of Jack "Loholt" Onefrey will likely produce  
4           material evidence in the pending litigation in the United States District  
5           Court, Western District of Washington at Seattle.
- 6           2. Jack "Loholt" Onefrey resides in Lac La Hache, British Columbia,  
7           Canada.
- 8           3. Plaintiffs seek to take the deposition of Jack "Loholt" Onefrey through  
9           the issuance of Letters Rogatory.
- 10           4. Issuance of Letters Rogatory is authorized and appropriate under  
11           FRCP 28(b), section 53 of the British Columbia Evidence Act,  
12           R.S.B.C. 1996, c. 124 and the principle of comity of nations.
- 13           5. The Letters Rogatory attached as Exhibit A should be issued by this  
14           Court and Jack "Loholt" Onefrey compelled to attend and testify at  
15           deposition scheduled at a mutually agreeable time.

16           Based on the above findings, IT IS ORDERED:

- 17           1. Plaintiffs' motion is granted as to their requests for perpetuation  
18           depositions.
- 19           2. The Court will issue the Letters Rogatory attached as Exhibit A to the  
20           appropriate authority in British Columbia, Canada directing that Jack  
21           " Loholt" Onefrey be compelled to attend his deposition and answer  
22           questions regarding the circumstances surrounding the allegations at  
23           issue in this litigation.

3. The testimony shall be reduced to writing, signed by the witness, certified and returned to the Clerk of this Court.
4. The parties will set the perpetuation deposition at Lac La Hache, British Columbia, Canada and at a mutually agreeable time insofar as possible depending upon the availability of the witness.

DONE IN OPEN COURT this \_\_\_\_\_ day of September, 2005.

**RICARDO S. MARTINEZ**  
Judge, United States District Court,  
Western District of Washington

Presented by:

By: s/ Steven T. Reich  
Steven T. Reich  
State Bar Number 24708  
Attorneys for Plaintiffs

Approved as to form;  
Notice of presentation waived:

## STAFFORD FREY COOPER

By: \_\_\_\_\_  
Marcus B. Nash, WSBA No. 14471  
Thomas Frey, WSBA No. 1908  
Attorneys for Defendants

[26313-00001]

ORDER FOR ISSUANCE OF LETTERS ROGATORY - 3 of 3  
**(C04-2338 RSM)**  
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